

Remarks

Claims 27, 30, and 32-34 were pending in the subject application. By this Amendment, the applicants have amended claims 27 and 33, have cancelled claim 32 and added new claim 35. Support for the amendments can be found throughout the specification and claims as originally filed. No new matter has been added by these amendments. Accordingly, claims 27, 30, and 33-35 are currently before the Examiner for consideration. Favorable consideration is respectfully requested.

The amendments presented herein have been made to lend greater clarity to the claimed subject matter and to expedite prosecution of the subject application to completion. These amendments should not be construed as an indication of the applicants' agreement with, or acquiescence to, the rejections of record. Favorable consideration of the claims now presented, in view of the remarks and amendments set forth herein, is earnestly solicited.

Claims 27, 29, and 30 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The applicants respectfully traverse this rejection to the extent that it might be applied to the claims as amended herein.

In an effort to expedite prosecution, the applicants have amended claim 27 to more specifically recite the use of human or non-human leukocyte antigens.

The test for definiteness under 35 U.S.C. §112, second paragraph, is whether "those skilled in the art would understand what is claimed when the claim is read in light of the specification." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576, 1 USPQ2d 1081, 1088 (Fed. Cir. 1986).

The applicants respectfully submit that the metes and bounds of the claims as currently presented can be readily understood by one skilled in the art.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 USC §112, second paragraph.

Claims 27 and 30 have been rejected under 35 U.S.C. §102(b) as being anticipated by Hoffman *et al.* (U.S. Patent No. 5,599,543). The applicants respectfully traverse this rejection to the extent that it might be applied to the claims as amended herein. The Hoffman *et al.* reference

does not disclose each and every step of the applicants' advantageous multi-analyte assay as now claimed.

In order to anticipate, a single prior art reference must disclose within its four corners, each and every element of the claimed invention. In *Lindemann v. American Hoist and Derrick Co.*, 221 USPQ 481 (Fed. Cir. 1984), the court stated:

Anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim. *Connell v. Sears Roebuck and Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983); *SSIH Equip. S.A. v. USITC*, 718 F.2d 365, 216 USPQ 678 (Fed. Cir. 1983). In deciding the issue of anticipation, the [examiner] must identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify corresponding elements disclosed in the allegedly anticipating reference. *SSIH, supra*; *Kalman [v. Kimberly-Clarke]*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983)] (emphasis added). 221 USPQ at 485.

In an effort to expedite prosecution, the applicants have amended claim 27 to more specifically recite the use of human or non-human leukocyte antigens. The cited reference does not disclose or suggest the use of human or non-human leukocyte antigens.

Accordingly, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 USC §102(b) based on the Hoffman *et al.* reference.

Claims 27 and 30 have been rejected under 35 U.S.C. §102(b) as being anticipated by Geyson *et al.* (Proc. Natl. Acad. Sci. USA 81:3998, 1984). The applicants respectfully traverse this rejection because the Geyson *et al.* reference does not disclose each and every step of the claimed assay.

As noted above, in an effort to expedite prosecution, the applicants have amended claim 27 to more specifically recite the use of human or non-human leukocyte antigens. The cited reference does not disclose or suggest the use of human or non-human leukocyte antigens.

Therefore, the applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) based on the Geysen *et al.* reference.

In view of the foregoing remarks and the amendment above, the applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

The applicants also invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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